

REMARKS

In the Office Action mailed May 4, 2007, the Examiner rejected claims 1-17, 19, 20, 22-26, and 63-66 and withdrew claims 18, 21, 27-62 and 67-75 from consideration. Applicant adds new independent claim 76 and amends formerly independent claims 1, 27, 48, 63, 69, and 74 to depend from new independent claim 76. Support for the subject matter of new claim 76 can be found throughout the specification, for example at page 6, lines 22-26 and page 7, lines 4-8. Only claim 76 is in independent form.

In regards to the species election requirement, Applicants confirm the election of the species of Figures 1-4 and 9. At least claims 1-28, 31-69, and 71-76 read on the elected species, with at least claims 27, 28, 31-62, and 69-76 generic. It is noted that the Examiner has improperly withdrawn from consideration claims 18, 21, 27, 28, 31-62, 67, 68, and 71-75. It appears that the Examiner is applying an overly restrictive claim interpretation and/or failing to understand the features of each species. For example, the Examiner improperly withdrew claim 21 from consideration. Both the species of Figures 1-4 and 9 and the species of Figures 5-8 include arrangements where the "electrically conductive portions (as shown, wires 24) that cannot form a closed current loop." (Specification, page 7, lines 4-5). Furthermore, claim 21 depends from formerly independent and now dependent claim 1, which clearly reads on the species of figures 1-4 and 9. In regards to the other improperly withdrawn generic claims, the specification discusses how these features can be present in the arrangements of both the species of figures 1-4 and 9 and the species of figures 5-8. Accordingly, Applicants respectfully request consideration of these improperly withdrawn claims.

New independent claim 76 is generic to both the species of figures 1-4 and 9, and the species of figures 5-8, and is allowable over the cited references. Claim 76 recites as follows:

An expandable stent comprising:
a polymer member; and
a metal member contacting the polymer member,
wherein the members are arranged such that the
metal member does not form a closed current loop.

As shown in fig. 1 of the instant application, the elected species include arrangements where polymer members (e.g., 26) and metal members (e.g., 24) where "the members are

arranged such that the metal member does not form a closed current loop." The polymer members (e.g., 26), which are non-conductive, do not allow for the formation of a closed current loop. Similarly, as shown in fig. 7, the non-elected species also includes at least one arrangement where polymer members (e.g., 26) and member members (e.g., 24), "wherein the members are arranged such that the metal member does not form a closed current loop." In fig. 7, the members do not form a closed current loop because the ringed metal members are C-shaped and do not completely close, and the polymer members (e.g., 26) do not conduct electricity to form a closed current loop. Accordingly, Applicants respectfully request the consideration of new independent claim 76.

The rejection of claims 1-17, 19, 20, 22-26, and 63-66 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 6,340,367 ("Stinson") is improper. These claims all depend from new independent claim 76, which requires "a polymer member; and a metal member contacting the polymer member, wherein the members are arranged such that the metal member does not form a closed current loop." The arrangements disclosed by Stinson, however, do include metal members that form closed current loops. As shown in figs. 2, 3, and 5-7 of Stinson, the metal members form a criss-cross pattern which would inherently form a closed current loop. Accordingly, the rejection of claims 1-17, 19, 20, 22-26, and 63-66 over Stinson should be withdrawn.

Accordingly, the pending claims 1-76 each define patentable subject matter over the cited prior art. Because withdrawn claims 18, 21, 27-62 and 67-75 depend from allowable generic claim 76, reconsideration of these claims is requested as provided by 37 CFR 1.141. As such, Applicant requests that the Examiner allow claims 1-76.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

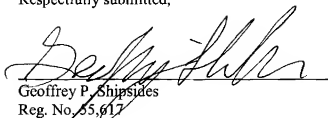
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Respectfully submitted,

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